

obvious over Smith in view of U.S. Patent No. 5,325,290 to Cauffman et al. (Office Action, ¶6)

Focusing on the rejections of independent Claims 8, 23 and 24 based on Smith, the Examiner points to lines 2-3 of col. 4 of Smith for purportedly teaching the calculating of a service suspension period whenever a service suspension occurs during a service and accumulating service suspension periods. However, Smith is directed at “non-communication states”, which includes a hold state or a long period of silence. (Col. 4, lines 47-50) Thus, in Smith, a user initiates the non-communication state, by either not speaking or by entering a “pause” (hold) signal. Smith focuses on achieving a competitive advantage from not charging users for non-communication states, even though the call remains connected by the service provider. (Col. 1, lines 31-39)

By contrast, the “service suspended period” recited in Claims 8, 23 and 24 is an interruption within the system, not by the user. On page 3 of the application, temporary service interruption and delayed signals are given as examples of service suspended periods. As shown in Figs. 3-5 of the application, keeping track of service suspension is initiated and performed by the system using generation and transmission of service suspension signals. Automatically recordation of service suspended periods and not charging the user for service suspension periods means that the user is charged for the actual time service is provided and not any more (and certainly not any less, as in Smith).

Thus, the “service suspended period” recited in Claims 8, 23 and 24 is not the “non-communication states” found in Smith. In addition, the teachings of Smith regarding accumulating the total non-communication time (which is based on monitoring

user actions) is not applicable or analogous to the determining the “service suspended period” as recited in the claims (which is automatically initiated and performed by the system based on system monitoring). Smith focuses on billing a user for less time than is actually used, whereas the recitations of Claims 8, 23 and 24 indicate that billing data takes into account the service suspended period, thus ensuring that no more time is billed than is actually provided.

Thus, Claims 8, 23 and 24 are distinguished from Smith for at least the above-discussed reasons. Since Smith is also the principle reference in the Section 103 rejections of independent Claims 1, 11, 16, and 21, which also use the “service suspended period” or like recitation, at least the above-discussed distinctions are also applicable to distinguish all of the independent claims from the cited art. Without conceding the patentability per se of the dependent claims, it is submitted that they are likewise patentably distinct from the cited art by virtue of their dependencies on the independent claims.

In addition to the above-discussed distinctions, at least the following additional distinctions may also be made between the following claims and the cited art:

- * With respect to Claim 23, lines 30-37 of col. 3 of Smith do not show an averaging, as maintained in paragraph 2 of the Office Action. Thus, for at least this additional reason, Claim 23 may be further distinguished from Smith.

- *With respect to Claims 1 and 16, lines 13-16 of col. 4 of Smith are cited in paragraph 4 of the Office Action as purportedly showing service start time and service end time. However, that portion of Smith only refers to “total” non-communication time

(as that term is discussed above) being used by the billing system. Thus, for at least this additional reason, Claims 1 and 16 and dependent Claims 2-7 and 17-20 may be further distinguished from Smith.

* Apart from their rejections over Smith and Renton in the first paragraph of paragraph 4 of the Office Action, independent Claims 21 and 23 are not explicitly treated in paragraph 4. However, it is noted that the secondary reference invoked in paragraph 4 of the Office Action, Renton, also fails to teach the index and related recitations of Claim 21 and fails to teach averaging as recited in Claim 23. Thus, for at least this additional reason, independent Claims 21 and 23, and dependent Claim 22, may be further distinguished from Smith and Renton.

* With respect to Claim 11, lines 45-49 of col. 16 of the secondary reference Cauffman are cited in paragraph 6 of the Office Action against Claim 11 as purportedly showing "storing the service to a unique index". The cited portion of Cauffman relates to a user withdrawing billing data from a diskette using a PC. The diskette bill includes an index file that has ordered lists of indices to call detail records and call summary records that are used to produce a report on the user's PC. Thus, Cauffman has no relation to assigning a unique index that relates to the storage of a service suspended period in a cellular network, as recited in Claim 11. Thus, for at least this additional reason, independent Claim 11 and dependent Claims 12-15 may be further distinguished from Smith and Cauffman.

* Dependent Claims 15 and 22 were rejected in paragraph 6 of the Office Action over Smith in view of Cauffman. Both claims include the recitation "wherein the billing

data further includes the number of service suspension occurrences". Lines 30-38 of col. 3 and the Abstract of Smith are cited in the Office Action for purportedly showing these recitations. However, lines 30-38 of col. 3 refer to recording the "calling and called telephone number", not the number of non-communication time intervals (as that term is discussed above). The Smith Abstract refers to accumulating non-communication intervals, but not recording the number of non-communication time intervals. Thus, for at least this additional reason, dependent Claims 15 and 22 may be further distinguished from Smith and Cauffman.

Accordingly, in view of the above amendments and remarks, reconsideration and allowance of all of the pending claims in the application, namely Claims 1-26, is respectfully requested. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,



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